

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, September 17, 2009, 1:00 – 4:00 p.m.

Members in attendance: Sandra Batie, Steve Chester, Brad Garmon, Chuck Hersey, Mindy Koch, Larry Merritt, Del Rector, David Rinard, Rhonda Ross, Mike Shriberg, Andy Such, Gildo Tori, and Paul Zugger.

DEQ Staff in attendance: Frank Baldwin, Liz Browne, George Bruchmann, Bill Creal, Amy Hicks, Lynn Fiedler, Kim Fish, Lynelle Marolf, JoAnn Merrick, Lisa Root, Frank Ruswick, Julie Sims, Cindy Smith, Jim Sygo, Bob Wagner, and Ken Yale.

OPENING

Lynelle Marolf introduced Bob Wagner as the new acting assistant division chief for the Remediation and Redevelopment Division.

Frank introduced Lisa Root, AQD, Cindy Smith, AQD, and Ken Yale, WHMD, all of which are participants of the DEQ's Leadership Academy.

CURRENT ISSUES

Frank provided an update on the wetlands program. The bill passed out of committee and was now on the senate floor for action. The bill takes steps to address concerns of the regulated community with the program. This bill would be coupled with three years of bridge funding for the program. The Wetlands Advisory Council would, in addition to considering other aspects of the program, recommend a mechanism for long-term funding of the program. Environmental organizations are not supporting the legislation as currently drafted because of a provision providing that the DEQ can't interpret its administrative rules on the issue of feasible and prudent alternatives to be more stringent than the federal rules. The DEQ supports the bill.

Frank clarified that it is unlikely that the wetlands program would revert to the federal government on October 1. The legislature is making progress in providing funding for the program. Even if that didn't materialize, it would take some time for the U.S. EPA to take the necessary administrative steps.

Director Chester described a judicial opinion that the DEQ does not have standing to contest a U.S. EPA decision designating tribal lands in Wisconsin in a protected air quality class. This could have implications for businesses in the Upper Peninsula.

Director Chester indicated that a court had rejected the DEQ's attempt to establish an administrative hearing opportunity for contesting a new source review permit.

Director Chester described a recent Circuit Court decision rejecting the DEQ's attempt to require AAR in Cadillac to remedy groundwater contamination it had caused. The court acknowledged that there was contamination and that AAR was at fault, but decided that the DEQ had not proven that the contamination occurred after a prior consent decree with AAR. That decree, entered in the 1980s, has a broad waiver of liability provision. AAR is now seeking attorney fees from the DEQ.

The Public Service Commission staff has provided an electricity-needs analysis for the Wolverine and Consumers plants generally indicating that there is not a need for a 600 megawatt Wolverine plant. There may be a need for the 900 megawatt for Consumers as a replacement should older plants be retired. The DEQ still plans to complete its permit review process by the end of the year. The U.S. EPA will be making a decision on the question of whether CO2 is a pollutant regulated under the Clean Air Act. If so, the DEQ's decision-making process on these applications will need to be extended.

Director Chester noted that the period for filing "exceptions" to the Proposal for Decision in the Kennecott contested case has been extended to October 1.

Frank provided an update on the implementation of the EAC's recommendations on use of policy guidance documents. There is a committee comprised of staff from each of the divisions which has been working on an approach to help staff identify what qualifies as a policy guidance document and hence subject to special requirements. Director Chester had issued a memo outlining how the DEQ would implement the EAC recommendations. That memo calls for this step to be done in six months and the committee is on schedule.

Director Chester provided an update on the budget development process and described cuts that could be suffered by programs in the Air Quality Division, Land and Water Management Division and Water Bureau. All of these cuts will mean a reduction in services to the regulated community and the public.

BREAKOUT SESSIONS

The EAC and Senior Management Team divided into five breakout groups to discuss recommendations for improving DEQ operations. The results of this session are summarized in Attachment 1.

SUMMARY OF PRESENTATIONS

There was a general discussion that took place and several members noted a common theme and similar ideas that all groups came up with. Members also observed that the lists everyone came up with were about investing in people.

Director Chester pointed out the importance of training and mentoring staff and the suggestion of offering a leadership academy for new staff was a great idea.

Members were pleased how this process took place and indicated by keeping the groups small, brainstorming was very productive.

CLOSING

Frank thanked the EAC and SMT members for their participation. The Planning Committee will meet before the next meeting to discuss how to most effectively structure the next discussion on the list of recommendations.